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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,513	07/30/2001	Karen Appleby	YOR920010330US1	9755
21254	7590	09/02/2004	EXAMINER	
MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			HUYNH, KIM T	
			ART UNIT	PAPER NUMBER
			2112	

DATE MAILED: 09/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/916,513

Applicant(s)

APPLEBY ET AL.

Examiner

Kim T. Huynh

Art Unit

2112

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☐ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attachment.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 1-21 and 24-33.Claim(s) withdrawn from consideration: none.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment request for reconsideration filed on 8/03/04 have been fully considered but are not place an application in condition for allowance.

a. In response to applicant's argument that Shuster does not teach or suggest to differentiate requests type. As Shuster notes at [0015] discloses the files are distinguishable by type and the server is provided with a rule set for prioritizing transmission of files by type. Furthermore, the rule set is applied to control the rate of transmission of the file, or whether to allow transmission of a file, depending on its file type and on other parameters. The file type determined when a file is requested for transfer. [0018] Whether or not to allow transmission of a file implies admitting each request only if the type meets at least one criterion for admission as applicant's claimed. Thus, Examiner interpreted file type is equivalent to request type as applicant's claimed.

b. In response to applicant's argument that Shuster does not teach or suggest plugin module. Plugin module is defined as a hardware or software module that adds a specific feature or service to a larger system according to Webpedia's definition. As Shuster notes as [0027-0028], web servers access a plurality of web pages, distributable applications, and other electronic files containing information of various types stored in HTML document databases. As a result, Web pages viewed on various user computers; for example, a particular web page or other electronic file can be viewed through a suitable application

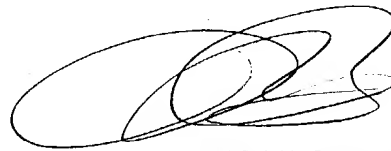
program residing on a user computer , such as a browser or by a distributable application provided to the user computer by a web server.

c. In response to applicant's argument that Shuster fails to deny entry of requests, it cannot be modified to change its principle of operation. As Shuster notes at [0018], the rule set is applied to control the rate of transmission of the file, or whether to allow transmission of a file at all, depending on its file type and on other parameters. Wherein, whether to allow transmission of files implies deny/accept entry requested as applicant's claimed.

d. In response to applicant's argument that the rejection currently of record misses the point, Shuster adopts an entirely different technique in which all requests are entered and upon entry, the file is determined so that transmission rate is based upon the rule for that file type. Examiner respectfully disagrees, As Shuster notes at [0018], the rule set is applied to control the rate of transmission of the file, or whether to allow transmission of a file, depending on its file type and on other parameters. The file type determined when a file is requested for transferred. Whether or not to allow transmission of a file implies admitting each request only if the type meets at least one criterion for admission as applicant's claimed. Thus, Shuster is an analogous art and it reads on the breadth of the claimed languages therefore it is properly stated in the rejection of record.

Kim Huynh

August 28, 2004



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